

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

DAVIS PRODUCT CREATION)
AND CONSULTING, LLC d/b/a)
BEESNTHINGS,)

Plaintiff,)

v.)

BRIAN BLAZER d/b/a)
CARPENTER BEE SOLUTIONS,)

Defendant.)

Civil Action Number: 1:19-cv-00848-CLM

**MOTION FOR PARTIAL SUMMARY JUDGMENT BY
PLAINTIFF DAVIS PRODUCT CREATION AND
CONSULTING, LLC d/b/a BEESNTHINGS**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiff/Counterclaim Defendant Davis Product Creation and Consulting, LLC d/b/a BeesNThings (“DPCC”) moves the Court to grant summary judgment in its favor as to Count VII of Defendant/Counterclaim Plaintiff Brian Blazer d/b/a Carpenter Bee Solutions’ (“Blazer”) counterclaim alleging patent infringement as well as Count II of DPCC’s Consolidated Complaint filed in this case. As grounds for this motion, there is no genuine dispute as to any material fact and DPCC is entitled to judgment as a matter of law. In support of this motion, DPCC states as follows:

1. DPCC is entitled to summary judgment on the claims identified in this motion as the material facts related to them are undisputed and the law is clear.

2. DPCC is entitled to summary judgment on Blazer's claim for patent infringement as set forth in Count VII of the counterclaim because Blazer's patent RE46,421 (the "'421 Patent") is invalid for various reasons and the Carpenter Bee Natural Bee Trap does not infringe the '421 Patent.

3. DPCC is entitled to summary judgment on Count II of its Consolidated Complaint because the undisputed material facts establish that: (i) DPCC is a "target" as defined in Ala. Code § 8-12A-1(2) (1975); and (ii) Blazer knew or should have known that his assertion of patent infringement of U.S. Reissue Patent No. 46,421 regarding side-mounted carpenter bee traps was meritless in violation of Ala. Code § 8-12A-2 (1975).

4. The brief in support of DPCC's motion for partial summary judgment states in more detail the grounds and substantive arguments upon which DPCC is entitled to partial summary judgment. The grounds, authorities, arguments, and all other matters contained in the brief are adopted and incorporated into this motion.

WHEREFORE, DPCC respectfully moves this Court to enter partial summary judgment in its favor as set forth in this motion.

S/C. Gregory Burgess

C. Gregory Burgess (ASB-1519-R79C)

Jeremy A. Smith (ASB-1731-J73S)

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of January 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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